

**REMARKS**

The Office Action mailed February 24, 2009, has been carefully considered.  
Reconsideration in view of the following remarks is respectfully requested.

**Rejection(s) Under 35 U.S.C. § 112, Second Paragraph**

Claims 1, 5, 6, 7, 10, 12, 18, 24, and 29 stand rejected under 35 U.S.C. § 112, second paragraph, as allegedly being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicants regard as the invention.

Claim 1 has been amended to change “appropriate circuits” to “circuits for processing the packets based on packet type,” and to delete “other packets.”

Claim 5 has been amended to delete both occurrences of the term “any.”

Claim 6 has been amended to delete both occurrences of the term “any.”

Claim 7 has been amended to remove “etc.,” “such as,” “in some embodiments,” “all necessary,” “any” (before “other data”), and “appropriate” (all occurrences).

Claim 9 has been amended to remove “appropriate.”

Claim 10 has been amended to remove “all” (before “information”) and “all” (before “necessary information”), to change “other information” to “additional information,” and to remove “appropriate” (before “commands”).

Claim 12 has been amended to remove “any.”

Claim 18 has been amended to replace “any other application program” with “additional application programs.”

Claim 24 has been amended to replace “other” with “non-PID.”

Claim 29 has been amended to replace “other” with “non-PID.”

**Rejection(s) Under 35 U.S.C. § 103(a)**

Claims 1, 3-4, 10-11 and 18-21 stand rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over Martin et al. (U.S. pub. no. 2002/0067376; hereinafter, “Martin”) in view of Hendricks et al. (U.S. pat. no. 5,990,927; hereinafter, “Hendricks”) in further view of Fellows et al., DOCSIS Cable Modem Technology; hereinafter, “Fellows”).

Claims 22-23 stand rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over Martin in view of Hendricks in further view of Fellows, in even further view of Duffield (U.S. pub. no. 2004/0210924; hereinafter “Duffield”).

Claims 5-6, 12 and 14 stand rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over Martin in view of Hendricks in further view of Fellows, in even further view of Hoogenboom (U.S. pat. no. 5,566,089; hereinafter, “Hoogenboom,” in even further view of Eng (U.S. pub. no. 2007/0140298; hereinafter “Eng”).

Claims 7-9 stand rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over Martin in view of Hendricks in further view of Fellows, in even further view of Eng.

Claims 13, 15 and 17 stand rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over Martin in view of Hendricks in further view of Fellows, in even further view of Widmer et al. (U.S. pat. no. 6,169,569; hereinafter, “Widmer”).

Claim 16 stands rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over Martin in view of Hendricks in further view of Fellows, in even further view of Cook et al. (U.S. pat. no. 6,950,145; hereinafter “Cook”).

Claim 24 stands rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over Martin in view of Hoarty et al. (U.S. pat. no. 5,361,091; hereinafter “Hoarty”)

Claim 25 stands rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over Martin in view of Hoarty in further view of Fellows.

Claim 26 stands rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over Martin in view of Hoarty in further view of Cook.

Claim 27 stands rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over Martin in view of Hoarty in further view of Hendricks.

Claim 28 stands rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over Martin in view of Hoarty in further view of Cook in even further view of Hendricks.

Claim 29 stands rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over Martin in view of Hoarty in further view of Fellows in even further view of Eng.

Independent claims 1, 24 and 29, from which the remaining claims depend, have been amended to state that upstream transmitted DOCSIS data includes management and control (M & C) data. This feature, supported for example on page 43, lines 10-13 of the specification, is not disclosed in or suggested by the applied references. Considering Eng in particular, for the upstream transmissions, separate transmitters are used, one for payload and one for control information. This is most clearly detailed in paragraph [0038] of Eng. Accordingly, claims 1, 24 and 29, and the remaining pending claims, which all depend variously directly or indirectly therefrom, are patentable over the applied referenced.

## **Conclusion**

In view of the preceding discussion, Applicants respectfully urge that the claims of the present application define patentable subject matter and should be passed to allowance.

If the Examiner believes that a telephone call would help advance prosecution of the present invention, the Examiner is kindly invited to call the undersigned attorney at the number below.

Please charge any additional required fees, including those necessary to obtain extensions of time to render timely the filing of the instant Amendment and/or Reply to Office Action, or credit any overpayment not otherwise credited, to our deposit account no. 50-3557.

Respectfully submitted,  
NIXON PEABODY LLP

Dated: July 23, 2009



Khaled Shami  
Reg. No. 38,745

NIXON PEABODY LLP  
200 PAGE MILL ROAD 2<sup>ND</sup> FLOOR  
PALO ALTO, CA 94306-2022  
TEL. (650) 320-7700  
FAX. (650) 320-7701